

*a***YM ORANG KAYA MENTERI PADUKA DATO' WAN AHMAD ISA
SHUKRI WAN RASHIDI****v.****KWONG YIK BANK BHD. & ANOTHER CASE (1)***b*

SUPREME COURT, KUALA LUMPUR
LEE HUN HOE CJ (BORNEO)
HASHIM YEOP SANI SCJ
MOHD. YUSOFF MOHAMED J
[CIVIL APPEAL NO. 220 OF 1987]
12 AUGUST 1988

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CIVIL PROCEDURE: *Carbon copies of letter sent to the guarantor - Whether formal letter of demand was served on guarantors - Whether action premature - Whether prior demand is a condition precedent to the creation of liability in a guarantor - Language of the guarantee and the nature of the liability it creates.*

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This was an appeal from the decision of Shankar J in [1989] 2 CLJ (Rep) 34, *Kwong Yik Bank Berhad v. Transbuilder Sdn. Bhd. & 4 Ors.* The Supreme Court allowed the appeal of the 3rd defendant, one of the guarantors. As there was no written judgment, we reproduce below the order of the Supreme Court.

For the appellant - Lambert Rasa-Ratnam

For the respondent - Jordon Sugunasingam

*e***JUDGMENT**

Lee Hun Hoe CJ (Borneo), Hashim Yeop Abdullah Sani SCJ, Mohd. Yusoff Mohamed J:

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This appeal coming on for hearing this day in the presence of Mr. Lambert Rasa-Ratnam of Counsel for the appellant and Mr. Jordan Sugunasingam of Counsel for the respondent and upon reading the appeal record filed herein and upon hearing Counsel as aforesaid it is ordered that this appeal be and is hereby allowed with costs and it is lastly ordered that the sum of RM500 (Ringgit Five Hundred Only) lodged in Court by the appellant as security for the costs of the appeal be refunded to the appellant.

Given under my hand and the seal of the Court this 12 August 1988.

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This order is filed by the Messrs. Skrine & Co., 3rd Floor, Straits Trading Building, No. 4, Leboh Pasar Besar, 50050 Kuala Lumpur, solicitors for the appellant above named (NN/shk/100201.9/88).

Also found at [1989] 2 CLJ 148

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